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AMEMBASSY,

TOKYO.

A-70 May 29, 1952

Subject: FCN Treaty. Informal discussions.
Embassy despatch 13, May 6.

This continues the Department's reply to reference despatch.

Enclosure 5 (continued)

Protocol 3. In view of the information revealed the discussion, the Department desires that the words "on the public domain" be deleted, so that the provision becomes mutual in fact.

Protocol 1. Department accepts the verbal change suggested by the Japanese.

As to the intent of the provision on legal aid, it may be noted that the proposed rule would not be binding on private legal aid societies, as the treaty only commits governments. Court appointed attorneys and suits in forma pauperis would be included among the rights envisaged.

Enclosure 6 (sixteenth meeting)

Now that the Peace Treaty has come into force, the provisions of this protocol are not technically relevant to the Ryukyus, as the U.S. position therein is not ~~that~~ that of a temporary military occupant. See Article 3 of the Peace Treaty. In order to clarify the matter fully, therefore, the Department proposes that the following words be added to the present language, preceded by a comma: "or to the Ryukyu or Bonin Islands the status of which

is provided

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is provided for in Article 3 of the Treaty of Peace". This formulation makes it clear that the status of these areas is simply not the concern of the FCN treaty; and also that the FCN treaty is entirely without prejudice, from the viewpoint of either Party, to their ultimate disposition. The Department will be interested in receiving the text of the public release which the Japanese proposed be issued to clarify public understanding of the application of the treaty to the Ryukus. It is undoubtedly appreciated that Department policy is against any unpublished substantive side "understandings", as the Department considers itself bound by Article 102 of the UN Charter to publish fully all substantive agreements.

Protocol 2. One of the illustrations often employed by the Department in explaining the scope of "indirect" interests would be the case of a factory owned by a Japanese-chartered corporation which in turn was owned by a Canadian subsidiary of an American company. Such factory would in effect be considered American owned property for purposes of compensation in event of expropriation.

Protocol 4. The postal services exception is designed primarily to make clear that the Post Office Department retains a free hand with respect to letting contracts for carriage of the mails; and that the arrangements whereby the members of the Postal Union of the Americas and Spain reciprocally carry each other's mail gratuitously is not extended to others under the Treaty. While it is probable that, fairly construed, the terms of the treaty do not absolutely require that this exception be entered in order to accomplish the aforesaid purpose, it is included for precautionary reasons.

Enclosure 7

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Enclosure 7 (seventeenth meeting)

Protocol 5. No comment.

Protocol 3-bis. Department's comments on the specific revisions proposed by the Japanese (as set forth in bottom of page 7 and top of page 8) will be forwarded later.

This completes the first installment of Department's reply to reference despatch. Instructions on deferred items will be forwarded as rapidly as possible.

BRUCE, ACTING

Bruce (Acting)
(NW)

✓
S/S-CR

MAY 29 1952 P.M.

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